EXECUTIVE SUMMARY

The MV Barima and the Maritime Statute Book of Guyana

A Fully Expanded Analysis of Statutory Deficiency in the Law Governing Domestic Passenger Shipping

Loss of the Guyana Government ferry MV Barima · 18 July 2026

73 dead · at least 30 unaccounted for · 76 rescued

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STATUS

What this document is — and is not

IT IS

- An analysis of the architecture of a statute
- Offered as an aid to the Commission of Inquiry, the National Assembly, the Ministry of Legal Affairs, MARAD, the Transport and Harbours Department and the public of Guyana
- Built from provisions read directly from the authorised text of the Laws of Guyana, as authorised by L.R.O. 1/2012

IT IS NOT

- An accident investigation — no access to the wreck, certificates, stability book, manifest or any witness
- A submission that any particular provision was breached
- A criticism of the individuals who administer the system — a regulator cannot enforce a standard Parliament has not enacted
- A substitute for the independent marine safety investigation SOLAS XI-1/6 requires

No finding of fact is made. No disputed question is resolved. Every person charged, detained, suspended or named in reporting is presumed innocent.

ES.1

The question

How do the maritime laws and statutes of Guyana fail the people of Guyana?

ES.1

The answer, established from the statute book alone

Guyana has a maritime statute book of considerable length which contains almost no enforceable safety standard for the class of vessel on which most Guyanese who go to sea actually travel; which requires nobody to count the people who go aboard; and which imposes on no person any duty to investigate a marine casualty, however many die.

Every finding in this summary would have the same answer whatever the Commission of Inquiry concludes about why the MV Barima capsized. Nothing here depends on a disputed fact about the casualty.

Chapters 4 to 11 establish each element of this proposition from the authorised statutory text.

ES.2

The central finding: the 24-metre gap

She was 40.26 metres long and 284 gross register tons.

ES.2

Two instruments, and the words that excluded her

1

Because she was LONGER than 24 metres

The Guyana Shipping (Small Commercial Ship Safety) Regulations, Reg. 5 of 2005 did not apply. That instrument is the only place in the entire 904-page consolidation containing intact stability criteria, stability information for operating personnel, an ISM-referenced safety management system, a Record of Passengers, a marine casualty notification duty, and station bill, muster and drill requirements. Its definition confines it to ships of less than 24 metres.

2

Because she was a PASSENGER SHIP

The Guyana Shipping (Cargo Ship Survey) Regulations, Reg. 6 of 2005 expressly carved her out. Regulation 3 applies to sea-going Guyana ships of less than 500 gross tonnage but above 24 metres in length — “except passenger ships, fishing vessels and pleasure craft.” She fell squarely inside the band and was removed from it by five words.

3

And Part XV of the Guyana Shipping Act, headed “Passenger Ships”, is TWO SECTIONS

One is an enabling power to make regulations that do not appear in the authorised consolidation. The other creates offences of drunkenness and fare evasion.

THE CONSEQUENCE

A vessel one metre shorter, carrying a small fraction of her complement, was subject to a materially more demanding safety code than she was.

Had she carried freight instead of people, she would have been subject to a five-yearly structural and machinery survey and to annual surveys. Because she carried people, she was subject to neither instrument.

This is not a drafting slip. It is a hole bounded on one side by the words “less than 24 metres in length” and on the other by the words “except passenger ships” — and every Guyanese domestic passenger vessel of 24 metres and over is in it today.

ES.3

The vessel

Vessel	MV Barima — Guyana-flagged steel passenger-and-cargo motor vessel
Owner / operator	Government of Guyana / Transport and Harbours Department
Built	Ferguson Brothers (Port Glasgow) Ltd, yard no. 340; launched 9 May 1939; registered Georgetown 17 November 1939
Dimensions	284 grt / 111 nrt · 40.26 m × 8.87 m · draft 7.5 ft · twin screw
Age at loss	86–87 years
Route	Georgetown → Port Kaituma, serving Region One (Barima-Waini), which has no road to Georgetown; population 38,956 at the 2022 census
Lost	18 July 2026 · distress signal 22:43 · capsized off the Essequibo coast
Casualties	73 dead · at least 30 unaccounted for · 76 rescued
Life-saving equipment	250 lifejackets · 6 inflatable liferafts · 2 rigid liferafts

Chapter 3.1 sets out the full particulars, including the 2017 refit, the 2024 Parika dry-docking and the March 2026 tender for approximately G$124.5 million of docking and overhaul work.

ES.3

The public record is irreconcilable on the most basic facts

CERTIFICATED CAPACITY — three figures from three named sources

Minister of Public Works Juan Edghill	**397 passengers**	284 tonnes cargo
MARAD Director-General Capt. Stephen Thomas	**about 394 passengers**	about 126 tonnes, “subject to loading conditions”
David Patterson, AFC Leader	**approx. 150 passengers**	290 metric tonnes

PERSONS ON BOARD

Manifest 133 (116 passengers + 17 crew) vs **CCTV review 179** (81 male, 37 female, 43 children, 18 crew) — the crew figure 17 v 18 is unreconciled

THE ARITHMETIC

On the manifest figure, the numbers do not close.

76	+	**73**	=	**149**	>	**133**
rescued		recovered dead		accounted for		on the manifest

The manifest total is exceeded by sixteen people. That is independent arithmetic corroboration that the manifest did not reflect the persons actually carried — and it is offered as arithmetic, not as a finding.

ES.4

The nine principal structural findings

Each is established from the text of the statutes, not from any disputed fact about the casualty.

ES.4.1

Guyana had two casualty-investigation regimes — and neither could lawfully be used

Cap. 49:01 Part XVIII (1998)

- The Minister MAY cause a preliminary inquiry and MAY cause a formal investigation
- No threshold, no trigger, no time limit, no duty to publish
- The Board's assessors are appointed BY THE DIRECTOR
- Its report goes TO THE DIRECTOR
- Its only dispositive power over any person is to cancel or suspend a certificate

Cap. 49:07 Part I (1883)

- A court of a magistrate and two assessors, with full powers of compulsion
- A duty to inquire fully, faithfully and impartially; dissent recorded in writing
- Appointment published in the Gazette; report with the evidence to the Minister
- SECTION 3: nothing in this Part applies to any ship belonging to or in the service of the State
- The MV Barima belonged to the State. The machinery was disapplied to her by its own terms

Chapter 6.5 records that the 1883 Act has stronger investigative powers than the 1998 Act in eleven respects.

Neither was used.

The Commission of Inquiry sits under the Commissions of Inquiry Act — a general-purpose statute that is not a maritime statute at all.

That decision was correct — and it is also the clearest possible proof of the deficiency.

A maritime statute whose own casualty machinery must be bypassed, in favour of a general-purpose colonial-era commissions statute, in the country’s worst maritime disaster, has failed the single test for which those provisions exist. Part XVIII was enacted in 1998 to deal with marine casualties. Twenty-eight years later, confronted with the largest marine casualty in the nation’s history, the State could not use it.

ES.4.1

The IMO Casualty Investigation Code is unimplemented in every respect

Mandatory under SOLAS Chapter XI-1, regulation 6 since 1 January 2010 — sixteen years.

What the Code requires	What Guyanese law provides
Mandatory investigation of every very serious marine casualty	**None — s. 427 is wholly discretionary**
Investigation separate from, and independent of, any other proceeding	**None — s. 429(3) fuses fact-finding with certificate revocation**
Investigators impartial and independent of any conflicted party	**None — assessors appointed by the Director, who may be the ship's statutory owner**
Protection of statements, communications and draft reports	**None — no privilege of any kind exists**
A final report made publicly available	**None — no duty to publish**
The report submitted to the International Maritime Organization	**None — Cap. 49:07 s. 5(4) sends it to the Board of Trade of the United Kingdom**

ES.4.2

The statute makes the regulator the owner of the ships he regulates

Cap. 49:01 s. 3(3): *where a Guyana Government ship is registered, "any reference to an owner shall be construed as a reference to the Director."*

Provision	Duty imposed on the "owner"	Owed BY	Enforced BY
s. 237	Report an accident within 24 hours to a marine officer or the Director	**the Director**	**the Director**
s. 238	On apprehended loss, cause a search and notify the Director in writing	**the Director**	**the Director**
s. 290	Carry prescribed stability information; send a copy to the Minister	**the Director**	**the Director**
s. 292	Give written notice to the Director of any accident, defect or alteration	**the Director**	**the Director**
s. 337	Not send a ship to sea in an unseaworthy state endangering life	**the Director**	**the Director**
s. 338	Use all reasonable means to ensure seaworthiness	**the Director**	**the Director**
s. 339	Subject to detention of his ship by the Director or a surveyor	**the Director**	**the Director**

In every case the person who must report is the person to whom the report is made. In every case the person who must not send an unseaworthy ship to sea is the person empowered to detain her.

AND IT DOES NOT STOP AT THE OWNER'S DUTIES

Where a registered Government ship is lost:

1	the statutory OWNER	**is the Director**	s. 3(3)
2	the officer who decides whether to DETAIN her before she sails	**is the Director**	s. 339
3	the officer who APPOINTS THE ASSESSORS to the Board of formal investigation	**is the Director**	s. 429(1)
4	the officer who RECEIVES the Board's report	**is the Director**	s. 429(6)

This is not a conflict of interest in the loose sense. It is the statutory identification of the regulated party with the regulator, effected by an express deeming provision. A person cannot investigate himself, and Parliament should not have written a statute that requires him to.

ES.4.3

It is arguable that the Guyana Shipping Act did not apply to her at all

Cap. 49:01 s. 3(1)(a) disapplies the entire Act to "Guyana Government ships operated for non-commercial purposes." The Act nowhere defines the phrase.

ARGUABLY NON-COMMERCIAL

- A State ferry on an essential public service to a region with no road
- Cap. 49:04 s. 9 requires Parliament to meet the Department's net deficiency — it is designed to run at a loss
- Fares are social: infants and pensioners free

ARGUABLY COMMERCIAL

- Tickets sold at a published tariff; commercial cargo carried for hire
- Cap. 49:04 Part II is framed as a carrier's régime — conditions of carriage, carrier's risk, dangerous goods, tariff
- s. 22 presupposes the Department carries on the business of a carrier

s. 3(2) — the power to prescribe how far the Act applies to Government ships — is a POWER, NOT A DUTY, and no regulations under it appear in the consolidation. The applicability of the principal maritime safety statute of Guyana to the vessel in which seventy-three people died therefore turns on an undefined phrase and on a Gazette notification whose existence has not been established.

ES.4.4

The load line was asked to answer a question it cannot answer

The single most important technical point in the document.

ES.4.4

What was said, and what each statement actually measures

“The load line was used to determine whether she was overloaded”	A correct use of a load line. Overloading in the sense of excess weight is exactly what it measures.
“It was just submerged / barely submerged”	A submerged load line is, on the face of s. 319(1), the offence. Whether she was in salt water, and whether she had a list, are questions of fact for the Commission.
“She floats higher in denser sea water”	Correct physics — the fresh water allowance. A complete answer to a submerged mark at a fresh-water berth; no answer at all in salt water.
“She was not overloaded”	A conclusion about WEIGHT, correctly drawn from a WEIGHT measurement.
“I am not clear how the weight was distributed”	This is the sentence that governs the other four.

If the distribution of the weight is unknown, then the stability is unknown — whatever the load line showed. The two statements are not contradictory. They are about different things.

ES.4.4

What a load line reading cannot tell you

A load line measures reserve buoyancy at a given displacement. It measures total weight and water density. It is entirely indifferent to WHERE that weight is.

- ✕ the vertical position of the centre of gravity (KG)
- ✕ the righting-lever curve (GZ)
- ✕ the angle of vanishing stability — the point of no return
- ✕ the downflooding angle
- ✕ the effect of the vessel turning
- ✕ whether the watertight and weathertight closures are shut
- ✕ the metacentric height (GM) — whether she is stable upright at all
- ✕ the area under that curve — the wave energy she can absorb
- ✕ free-surface effect from partly filled tanks or water on deck
- ✕ the effect of a passenger crowd moving to one side
- ✕ whether the cargo is secured
- ✕ whether she is already taking water somewhere

Every one of these determines whether a vessel capsizes. Not one is measured by the mark on her side.

AND THE FAULT IS THE STATUTE'S, NOT THE REGULATOR'S

MARAD used the load line because the load line is the only quantitative loading control Guyanese law gives it for this class of vessel.

- No intact stability criteria in Guyanese law for a 40-metre passenger ship
- No duty to calculate a departure condition
- No stability instrument or loading computer required
- No passenger-crowding heeling-moment criterion
- No prescribed content for stability information under s. 290
- No approved-loading-condition régime
- No maximum-KG or minimum-GM curve required to be posted
- No requirement that a surveyor approve a loading plan

A regulator with a load line and nothing else will use the load line. Fix the statute and the practice follows; criticise the practice and nothing changes.

ES.4.5

Nobody was required to count the people on board

WHAT SOLAS III/27 REQUIRES

- All persons on board counted BEFORE DEPARTURE
- Name and gender recorded, distinguishing adults, children and infants
- Details of any person needing special care communicated to the master
- The record KEPT ASHORE and made readily available to search and rescue

WHAT GUYANESE LAW REQUIRES

- s. 398(1)(b) confers power to require particulars as to all passengers
- It is an ENABLING POWER — no regulations under it appear in the consolidation
- The nearest live duty is Coasting Regs reg. 13(6), which applies only to SAILING vessels
- River Nav Regs reg. 45(1) requires a count — on rivers only

The discrepancy between 133 and 179 is therefore not, on the face of the statute book, a breach of any counting duty — because no counting duty exists.

A manifest is a commercial document, compiled from bookings for revenue, customs and accounting purposes. A record of persons on board is a safety document, compiled by counting and retained ashore so that in a casualty the search and rescue authorities know how many people to look for. They are different documents with different purposes.

ES.4.6

The penalties are inverted, and the most serious offence has none

Submerging a load line	Cap. 49:01 s. 319	**$100,000**
Trading without evidence of financial responsibility	Cap. 49:01 s. 10(5)	**$100,000**
Contravening safety-at-sea regulations	Cap. 49:01 s. 251(2)	**$50,000**
Fraudulently altering draught marks	Cap. 49:04 s. 46	**$48,750**
Failing to deliver up a cancelled certificate	Cap. 49:01 s. 429(4)	**$25,000**
Sailing with no stability information	Cap. 49:01 s. 290(3)	**$10,000**
Failing to notify an accident, defect or alteration	Cap. 49:01 s. 292(3)	**$10,000**

A vessel loaded one centimetre too deep attracts four times the fine of a vessel sent to sea in a condition likely to kill everyone aboard. Section 337 prescribes no penalty of its own and falls to the general default. The equivalent offence under Cap. 49:07 s. 26 carries TWO YEARS' IMPRISONMENT.

AND BOTH ACTS SUPPLY A DEFENCE

“… that sending the ship to sea in such an unseaworthy state was in the circumstances reasonable and justifiable.”

Cap. 49:01 ss. 337(1)(b), 337(2) and 338(2) · Cap. 49:07 ss. 26(1), 26(2) and 27

This is not a defence of due diligence — that is limb (a). Limb (b) is a defence that sending an unseaworthy ship to sea was JUSTIFIED. On a lifeline route serving a region with no road to the capital, where the alternative to sailing is that Region One does not receive its supplies and its people do not travel, that defence is not fanciful. Parliament has expressly provided it, in both of the Acts that create the offence.

When a State confronts seventy-three deaths and its maritime statute offers six months, the prosecutor goes to the common law.

On 28 July 2026 three employees were charged with murder. They are presumed innocent, and this document expresses no view on the charges. It records that the recourse to common-law murder is a direct consequence of the penalty structure of the Guyana Shipping Act — a legislative failure, not a prosecutorial choice.

ES.4.7

Accountability reaches the master, the mate and the loader — and nobody else

Cap. 49:01 s. 429(3) permits a Board of formal investigation to cancel or suspend a CERTIFICATE, or to censure its holder. That is the whole of its dispositive power over persons.

The master	**REACHED**
The chief mate	**REACHED**
The loading superintendent	**BARELY — no office, no duty, no offence in law**
The General Manager, T&HD	**NOT REACHED**
The Transport and Harbours Department	**NOT REACHED**
The Director of Maritime Affairs / MARAD	**NOT REACHED**
The Ministry	**NOT REACHED**
Parliament	**NOT REACHED**

There is no offence in the Act capable of being committed by a company, a Department, a Ministry or the regulator. Warnings already voiced publicly that this inquiry must not end by punishing only the “small man” are therefore structurally well-founded: under the maritime statutes as they stand, the small man is the only person the law can reach.

ES.4.7

The Superintendent of Loading exists in fact and not in law

The office the Minister has publicly identified as responsible for inspection and loading is not created by, named in, or given any duty by Cap. 49:01, Cap. 49:04, Cap. 49:07 or Cap. 50:01.

- ✕ No statutory office
- ✕ No prescribed qualification
- ✕ No standard governing how it loads
- ✕ No record required of what was loaded or where
- ✕ No offence attaching to it
- ✕ No appeal or review of its decisions

The nearest thing in the statute book is Cap. 49:01 s. 338 and its twin Cap. 49:07 s. 27, which imply into a contract of service an obligation on “every agent charged with the loading of the ship” to use all reasonable means to ensure seaworthiness. That is an implied contractual term enforceable by a master or seaman. It is not a statutory duty enforceable by the State, and it carries no penalty.

A person cannot be regulated by an office that does not exist in law.

ES.4.8

The statute book depends on institutions that no longer perform the function

Cap. 49:07 s. 5(4)	The Minister must transmit a copy of a court of inquiry's report, with the evidence and any cancelled certificate, to THE BOARD OF TRADE OF THE GOVERNMENT OF THE UNITED KINGDOM — defined in terms by s. 2, as amended in 1998.
Coasting and Passenger Trade Regulations, reg. 13(3)	The number of passengers a coasting STEAM VESSEL may carry is "as ascertained in accordance with the survey established from time to time by the Board of Trade of the United Kingdom." This is the ONLY rule in Guyanese law for ascertaining the passenger capacity of a power-driven coasting vessel.
Fourth Schedule to those Regulations	Prices the exercise: $20.00 for a vessel over 120 feet by deck measurement. The MV Barima was 126.5 feet.
Cap. 49:07 s. 35(2)	Exempts from inspection any vessel holding a certificate of "the society known as Lloyd's Register of British and Foreign Shipping" — an entity that has not carried that title for decades.

Since 1 January 2010 there has been a correct destination for such a report — the International Maritime Organization. Guyanese law contains a duty to transmit a casualty report abroad, to the wrong body, and no duty to transmit it to the right one.

ES.4.9

The 1891 river law is better than the 1998 sea law

What the River Navigation Regulations, made under Cap. 50:01, require of river craft:

- ✓ Annual inspection of the vessel with her equipment
- ✓ Machinery AND STEERING GEAR maintained in proper working order, on pain of detention
- ✓ That number PAINTED ON BOTH BOWS
- ✓ A count of persons entered in a book at a Government Station before departure
- ✓ A duty to report ANY ACCIDENT WHATEVER occasioning loss of life
- ✓ Branded waterlines against a statutory freeboard scale
- ✓ A certificated maximum number of persons, CREW INCLUDED
- ✓ ONE LIFEBELT for every certificated person
- ✓ A prohibition on taking any additional person aboard after reporting

Not one of these has any equivalent for a 40-metre sea-going State passenger ferry.

And reg. 27 bites on the Barima River below Mount Everard, the Kaituma Creek below Port Kaituma and the Aruka Creek below Kumaka — the MV Barima's own destinations.

REG. 19(1), MADE IN 1918

One passenger with baggage for every five square feet of deck surface — expressly excluding the space occupied by machinery, open hatches, skylights, fuel and any cargo carried on deck.

With the certificate of the resulting number framed and displayed on board under reg. 19(2).

Guyana has had a serviceable, self-executing, deck-area capacity rule for power-driven passenger vessels since 1918. It requires no foreign institution and no discretion, and it automatically reduces the permitted number of persons as deck cargo is loaded.

It applies on the Barima River and on the Kaituma Creek. It does not apply on the sea passage between them and Georgetown.

And Cap. 50:01 s. 14, inserted in 1998, is the ONLY mandatory enforcement duty in the entire Guyanese maritime statute book: “it shall be the duty of the Director and the Maritime Administration Department to enforce” the Act. In 1998 Parliament knew how to write such a duty. It wrote one, once, into an 1891 river statute, and did not write it into the new Act.

ES.5

What the regulator itself said, seven years before the casualty

An admission by the regulator, made long before this casualty and therefore uncontaminated by it.

ES.5

Claudette Rogers, Director General of MARAD — 27 March 2019

On ratification versus implementation	“It should be noted that although Guyana has ratified the main International Maritime Conventions, the requisite regulations need to be enacted or put in place because the country follows the common law system.”
On the IMO Member State Audit	The IMO Member State Audit of Guyana was COMPLETED IN 2018, covering flag, port and coastal State administration.
On what the audit required	“As a direct result of the IMO Audit … several measures were necessary” — one being the enacting of regulations to give full and complete effect to the conventions which Guyana has ratified.
On the legislative review	Professor Duke Pollard, a retired Judge of the Caribbean Court of Justice, had been retained to update Guyana’s maritime legislation and had COMPLETED THE ASSIGNMENT WITH RECOMMENDATIONS — expressly directed at eliminating conflicts among agencies as to where responsibility for key maritime functions resides.
On STCW	One observed limitation was that Guyana had NOT RATIFIED THE STCW 95 amendments while Guyanese surveyors were issuing certificates on that basis — which she described as a significant breach of international maritime law.

In July 2026 a State passenger ferry sailed under a statute that imposed on her no stability criterion, no survey cycle, no manning standard, no muster requirement, no headcount duty and no limit on persons carried.

FOUR DOCUMENTS WILL LARGELY ANSWER THE COMMISSION'S INSTITUTIONAL QUESTION

And all four exist.

1. The IMO Member State Audit report on Guyana
2. Guyana's corrective action plan submitted in response
3. All progress reports on its implementation
4. The Pollard report and recommendations, in full

They are documents of the State. They do not require investigation to discover. They require a requisition.

ES.6

The comparative record: nothing here is novel

The MV Christena — 233 dead, 91 survivors, still the deadliest maritime disaster in English-speaking Caribbean history — was built between 1958 and 1959 by Sprostons Ltd in Georgetown, British Guiana.

Guyana built her. Fifty-six years later the second worst involved a vessel operated from the same port.

Capacity	155 certificated · approximately 320–322 on board
The inquiry	Constituted under the Commissions of Inquiry Act — the same class of instrument Guyana is using now
Commissioner J. D. B. Renwick	Heard 45 witnesses and REPORTED IN OCTOBER 1970 — about ten weeks after the loss
Findings	Dangerously overloaded and improperly loaded, with cargo positioned so as to destabilise her; and NO RELIABLE SYSTEM FOR COUNTING PASSENGERS BEFORE DEPARTURE
Ballast	She sailed with her BALLAST TANKS EMPTY — standard practice, adopted so she would ride higher and passengers would stop complaining about spray on the decks

That counting finding is fifty-six years old, and Guyana still has no counting duty.

ES.6

Every recurring causal factor maps to a Guyanese deficiency

Recurring factor	Christena 1970	Doña Paz 1987	Bukoba 1996	Joola 2002	Sewol 2014	Guyanese law provides
Certificated capacity exceeded	✓	✓	✓	✓		**No published rule fixing capacity**
No reliable count of persons	✓	✓	✓	✓		**No duty to count**
Improper cargo loading	✓		✓	✓	✓	**No loading standard**
Insufficient ballast	✓				✓	**No ballast requirement for the class**
Known defect not acted upon	✓		✓	✓		**Report duty with no duty to act**
Modification raising KG			✓		✓	**No re-inclining requirement**
Closures not secured	✓					**No closure requirement for the class**
Slow or uncoordinated rescue	✓	✓	✓	✓	✓	**No SAR framework in domestic law**
Lifeline route, no alternative	✓		✓	✓		**s. 337 justification defence available**

Nothing about the loss of the MV Barima is novel, and nothing required to prevent the next one has to be invented.

ES.7

The deficiency count

42	29	11	3	2
CRITICAL	HIGH	MEDIUM	LOW	URGENT-TIME

87 numbered deficiencies, plus 20 unnumbered structural items

Chapter 11 sets out every one against its provision, the gap, the MV Barima nexus, the international benchmark, and the recommended reform.

CRITICAL = capable of causing or permitting mass loss of life, live today across the domestic fleet, and not curable administratively.

ES.8 · URGENT-TIME

A deadline of 18 January 2027

The most urgent item in the document, and it concerns the bereaved families directly.

ES.8

Cap. 49:04 s. 23 — notice of action and limitation

No action against the Transport and Harbours Department may be commenced until ONE MONTH after written notice naming the claimant’s LEGAL PRACTITIONER has been served; and every such action must be commenced WITHIN SIX MONTHS after the thing done or omitted, “and not otherwise.”

The casualty	**18 July 2026**
Six months expires	**on or about 18 JANUARY 2027**
Notice must therefore be served by	**on or about 18 DECEMBER 2026**
Prudent date to have instructed a practitioner	**not later than the end of October 2026**

The order is: instruct a practitioner → serve the written notice → wait one month → commence proceedings within six months of the act or omission.

Nothing in this document is legal advice. The application of s. 23 to any particular claim is a question for a legal practitioner admitted in Guyana.

ES.8

Six reasons this is a trap for exactly the people least able to avoid it

1. The period runs from the act or omission — NOT from knowledge, not from death, not from identification of a body, not from a grant of representation.
2. The Commission will very probably not have reported within six months. A family that waits — the natural and reasonable thing to do — may find the period gone.
3. Claimants are disproportionately Region One residents with no road to Georgetown, and the vessel that connected them to it is on the seabed.
4. The notice must NAME A PRACTITIONER, so a family must find and instruct one before the clock can be stopped.
5. Five recovered victims remained unidentified as at 27 July 2026 and at least thirty were unaccounted for. A family with no body and no death certificate cannot readily obtain a grant of representation, and s. 23 makes no allowance.
6. Ex gratia assistance is NOT COMPENSATION and does not stop the clock. The President has been emphatic that the assistance being arranged is not compensation.

A family that misses this loses everything without ever being told there was a deadline.

ES.8

And there is no insurer to claim against

Cap. 49:01 s. 398(2) requires the Minister to have due regard to the ATHENS CONVENTION when making passenger-ship regulations. No such regulations were made — so the requirement of due regard never attached to anything, and the Convention's protections never reached a Guyanese passenger.

WHAT ATHENS 2002 WOULD GIVE

- Strict liability for a shipping incident — and a capsizing is one
- Liability for presumed fault beyond the first tier
- Defined limits in units of account
- COMPULSORY INSURANCE for carriers of more than twelve passengers
- A DIRECT RIGHT OF ACTION against the insurer

WHAT A FAMILY ACTUALLY HAS

- A claim against a Government Department
- Subject to one month's notice naming a practitioner
- Subject to a six-month limitation period
- Subject to the limitation of liability in Cap. 49:01 Part XVI
- And NO insurer against whom they have any direct claim

Guyana has enacted the LIMITATION of liability and not the LIABILITY. The protective half of the international bargain was omitted and the limiting half retained.

Recommended as an interim measure not requiring the final report: a published undertaking by the State not to rely on s. 23, or emergency legislation suspending it. Chapter 12.1 supplies drafted text for both.

ES.9

The ten reforms that close the exposure

The most important safety reform is also the fastest, because Parliament already gave the power away twice — in 1883 and in 1998 — and nobody has used it.

Regulations closing the 24-metre gap can be made under Cap. 49:01 ss. 251, 398 and 452, or under Cap. 49:07 s. 25 by the Director subject to affirmative resolution of the National Assembly. NO NEW ACT IS REQUIRED.

ES.9

The ten reforms

1 Enact a domestic passenger vessel safety code for all vessels of 24 metres and over

Based on the IMO Model Regulations on Domestic Ferry Safety, covering stability, subdivision, fire, life-saving, manning, muster and drill, and survey. Closes deficiencies 6, 20, 39, 40, 41, 65, 67, 68 and 92.

2 Fix the maximum number of persons by published rule

The lesser of survival craft capacity, lifejacket count, evacuation capacity and stability compliance, reduced for deck cargo; marked on the vessel; and exceeding it made an offence BY THE CARRIER. Closes 21, 25, 45, 48 and 84.

The ten reforms (continued)

3 Require every person to be counted at embarkation

Recorded by name and category, with the record held ashore, and no boarding after the count is closed. The domestic equivalent of SOLAS III/27. Closes 22 and 71.

4 Prescribe the content of stability information under s. 290

And require the departure condition to be calculated, recorded and certified before every voyage. Guyanese law presently requires a master to carry a book; it does not require him to open it. Closes 8, 9, 11, 14 and 77.

The ten reforms (continued)

5 Establish an independent, permanent, multi-modal Transport Safety Board reporting to Parliament

Compulsory powers, protected evidence, a no-blame mandate, mandatory investigation of every very serious marine casualty, mandatory publication, submission to the IMO, and recommendation tracking. Closes 29, 30, 31, 32, 42, 43, 44, 61, 74 and 91.

6 Repeal Cap. 49:01 s. 3(3) so the regulator is no longer the owner

And define “non-commercial purposes” to exclude any ship carrying passengers or goods for a fare, freight or other reward, whether or not the service is subsidised or operated at a loss. Closes 1, 2, 3 and 4.

The ten reforms (continued)

7 Repeal the “reasonable and justifiable” defence

In Cap. 49:01 ss. 337 and 338(2) and Cap. 49:07 ss. 26 and 27, retaining only the due diligence defence; and prescribe a penalty for s. 337 commensurate with the harm risked. Closes 15 and 17.

8 Accede to and enact the Athens Convention 2002 Protocol

Strict liability for a shipping incident, compulsory insurance, and a direct right of action against the insurer. Closes 5, 23, 26, 85, 86 and 87.

The ten reforms (continued)

9 Deal with Cap. 49:04 s. 23 now, before 18 January 2027

By published undertaking or emergency legislation, with provision for a family that cannot obtain a grant of representation because a body has not been recovered or identified. Closes 27 and 54.

10 Enact a Maritime Search and Rescue Act

Establishing the MRCC, the search and rescue region, distress alert routing and response time standards. At present the MRCC has no statutory existence and the SAR Convention 1979 is unimplemented. On the night, the distress signal reached an AVIATION authority at 22:43 and took TWENTY MINUTES, through two intermediaries, to reach the maritime rescue authority. Closes 59, 60 and 83.

ES.10

Two limitations, disclosed rather than concealed

1 The consolidation is current only to L.R.O. 1/2012

Any regulation, order, notice or Gazette instrument made after 2012 will not appear in it. Every finding in this document expressed as the ABSENCE of a regulation — most importantly that no regulations exist under s. 398 governing passenger-ship safety, and none under s. 290 prescribing stability information — is expressed subject to verification against the current subsidiary legislation of MARAD and the Official Gazette. This does not disturb the primary findings, which rest on the text of the primary Acts and of the instruments actually reproduced.

2 Guyana’s accession status could not be verified instrument by instrument

The IMO Status of Conventions page disallows automated access, and the consolidated Status of IMO Treaties runs to several hundred pages with each State scattered alphabetically within some sixty separate convention lists. It could not be retrieved and searched in a usable form. Chapter 9 therefore asserts nothing about any individual instrument; every comparison rests on the instruments’ own text and on the Guyanese statute book. A complete accession table is Priority One verification item number one.

Two further Chapters — Cap. 49:03, the Passengers Act, and Cap. 49:08 — are cross-referred in the authorised text but could not be obtained. Both are Priority One items in Chapter 14.

ES.11

The closing proposition

Seventy-three people are known to have died and at least thirty more are unaccounted for. Most were travelling on the only connection between the capital of their country and a region of 38,956 people that has no road.

ES.11

The maritime laws of Guyana failed them

- by leaving the vessels that carry the most people subject to the least law
- by conferring powers to make safety regulations in 1883 and again in 1998, and never using them
- by making the regulator the owner of the ships he regulates
- by making investigation discretionary, and excluding the State’s own ships from the only regime with real investigative teeth
- by pointing, in 2026, at the Board of Trade of the United Kingdom
- by punishing a submerged load line four times more heavily than sending a ship to sea in a condition likely to kill everyone aboard — and supplying a defence that doing so was reasonable
- by giving a master no protection for refusing to sail, and a defence for sailing
- by naming the Athens Convention and enacting none of it, so that seventy-three families have no insurer to claim against and six months to sue a Government Department
- **and, most of all, by requiring nobody to count the people who went aboard**

Every one of those failures was identified before this casualty.

OCTOBER 1970	by a British commissioner in Nevis, reporting on the loss of the MV Christena — a vessel built in Georgetown, Guyana
2018	by the IMO Member State Audit of Guyana, which required the enacting of regulations to give full and complete effect to the conventions Guyana had ratified
BEFORE MARCH 2019	by Professor Duke Pollard, a retired Judge of the Caribbean Court of Justice, whose review of Guyana’s maritime legislation was completed with recommendations

None of it required this ship to be lost.